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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 Robert W. Johnson,

7 Plaintiff,

8 v.

9 Officer Ponticello,

10 Defendant.

Case No. 2:24-cv-01728-JAD-DJA

11 **Report and Recommendation**

12 On September 20, 2024, the Court denied Plaintiff's application to proceed *in forma*
13 *pauperis* and directed him to file a new one or pay the filing fee on or before October 21, 2024.
14 (ECF No. 3). In doing so, the Court explained that "[f]ailure to comply with this order may result
15 in a recommendation to the district judge that this case be dismissed." (*Id.*). Plaintiff has missed
16 this deadline. So, the Court recommends that Plaintiff's case be dismissed without prejudice. A
17 dismissal without prejudice allows Plaintiff to refile a case with the Court, under a new case
18 number.

19 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
20 prejudice. The Clerk of Court is kindly directed to send this recommendation to Plaintiff.

21
22 **NOTICE**

23 Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be
24 in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The
25 Supreme Court has held that the courts of appeal may determine that an appeal has been waived
26 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142
27 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to
28 file objections within the specified time and (2) failure to properly address and brief the

1 objectionable issues waives the right to appeal the District Court's order and/or appeal factual
2 issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991);
3 *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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5 DATED: November 4, 2024


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7 DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE
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